

Olney Oaks Homeowners Association Board Minutes – December 3, 2009

The meeting was called to order at 7:30 p.m. by Dennis Bourque.

Present: Don Beeson, Jay Feinberg, Carolyn Knight, Nicole Lechner, and Theresa Kyne Robinson

A. Leaf Pick-Up

Dennis stated that U.S. Lawns should finish the second and last leaf pick-up for this year tomorrow and has also been cleaning up the soggy coalesced leaves left behind during the first pick-up. Heavy rains had preceded and continued through the October pick-up, weighing and clumping the leaves, and although some were too heavy for the vacuum, the benefit was that more leaves could be packed into each truck.

B. The Darnell-Skymist Dam and Rising Water

Heavy rains on the night of 12/2 caused water to back up into a lake according to Nicole, who discovered it at 7:00 am on 12/3, and prompted one resident to call Dennis an hour later. By 10:30 there was still a large amount of water but it had begun to recede. Dennis and Jay explained the following issues with the dam.

1. The new dam water flow valve is not locked, nor is the metal cage over the concrete structure, and children have been trespassing and shutting the valve. The county came out later in the morning to open the valve and put locks on the valve and the cage.
2. The county had installed a new smaller pipe and trash rack that gets clogged by leaves.
3. The concrete structure is now at a lower level than it was previously, but water still spreads out into the surrounding area.
4. The new design of the dam slows the release of the water, so it might take 24 to 48 hours for the backed up water to go down. People will see a lake more often.
5. The new trash rack is smaller than the previous one and might get clogged too quickly. This situation will have to be monitored.
6. The impact on the trees near the dam: According to Dennis:
 - a. Trees can sit in water for two to three days, and their leaves may turn brown, without significant damage
 - b. After five to seven days the trees will begin to drown.
 - c. After seven to ten days, the trees drown.

Jay stated that although the county expects us to keep the trash rack free of debris as we have been doing, the HOA should not be responsible for a poorly designed structure that requires far more maintenance than it should. He shared that we might have to escalate this issue with the county or take legal action, if necessary. Our lawn service contract includes \$600 three times a year for an annual cost of \$1800 to U.S. Lawns to clear trash from the dam intake. Anything over that due to the new design should be covered by the county.

C. Leaf Removal at Headwaters Drive and Route 108

Carolyn felt that the leaves should be removed from the pipeline side of Headwaters Drive. Dennis also brought up the need to have leaves removed from the area around five Bradford pear trees facing Route 108 near the Olney Oaks entrance sign. Dennis said the cost would be under \$200 and would be done along with the rest of the leaf removal process.

The board voted to have U.S. Lawns remove leaves from these areas.

D. Homeowners Complaints Reduced.

Dennis stated that complaints from the HOA members have greatly decreased and that Paul of U.S. Lawns had shared that hardly anyone complains to them anymore.

E. Sidewalk Work

To meet the needs of disabled individuals and others wanting to use the Ride On buses, the county added concrete walks connecting sidewalks to the street at bus stops and added ADA wheelchair ramps at street intersections along Headwaters Drive and Morningwood Drive during November.

Jay said that residents had been asking for years for a concrete connector walk on the west side of Headwaters Drive at Morningwood so people could cross Headwaters Drive. People had to walk on the grass or crisscross the street and walk onto the driveway at 11800 Headwaters Drive. This connector walk is now in place. Crosswalk markings are expected to be added in the spring.

Jay will contact the county about adding a connector walk and crosswalk at the corner at Danube Lane and Morningwood so people can more safely cross Morningwood to get to the HOA tot lot and other amenities off of Danube Lane. This was requested at the last annual meeting.

F. Snow and Ice Removal

U.S. Lawns is contracted to clear snow and treat for ice on six concrete sidewalks on HOA common property and curb cuts at six intersections. The contract states they will come if the snow accumulates two or more inches. They have 27 spotters around the county for monitoring snowfall. Our asphalt paths are considered recreational paths and under county rules are not required to be cleared of snow.

G. Creek at Headwaters Lane

The fabric and rocks (rip rap) that the county installed a few years ago at the inlet to the pipes going under the street have been moved out of place by the rushing water. Some of the rocks are in the pipes. The water zigs and zags among the trees that grew along the channel leading to this area. This is causing turbulence that is pushing the rip rap out of place. The water needs to be directed straight into the pipes in order to preserve the rip rack on the banks.

In addition, the water is eroding and occasionally flooding the neighboring property at 4215 Headwaters Lane. The county needs to be contacted about repairing the rip rap area within 20 to 30 feet of the street that they installed. Some work will need to be contracted out by the HOA. Dennis will contact the county and check with U.S. Lawns or some other contractor for bids to do the remaining work.

H. Olney Oaks Entrance Signs

One of the stone columns supporting the Headwaters Drive entrance sign is gradually tilting away from the other column. Jay asked Dennis if he knows anyone who could rebuild the tilted stone column. Dennis responded that it would involve removing the stone post, which would likely fall apart because it is just a stone skin over a center post, pouring a new foundation, and rebuilding the column. He felt it would be more cost effective to tear out both existing columns and put in a whole new "dry stack" stone structure to support a new sign. A proposal was previously obtained from U.S. Lawns for adding a new entrance sign at the Morningwood Pepco power lines entrance. A plan for replacing the Headwaters drive sign and adding entrance signs on Morningwood and Queen Elizabeth is needed. The board will address this issue in March.

I. Annual Meeting Mailings

The annual meeting will take place on January 27th, 2010. The announcements will be mailed the first week of January and will contain:

- a. Cover letter
- b. Financial statement
- c. Agenda
- d. Proxy reply card with section to vote on the continuation of curbside leaf collection

Jay will prepare the documents and obtain stamps and envelopes. Carolyn, Nicole and Julia (contacted after the meeting) will stuff the envelopes and mail them.

J. Treasurer's Report

On November 14th, Don and Jay transferred some unused funds from the last fiscal year from the checking account to the general reserve money market fund. They also transferred some money from the townhouse fund to the checking account. This money plus money collected from the townhouse owners this fiscal year were used to pay for sealing and restriping the townhouse parking spaces.

Liens were placed on four houses last year because of annual dues were not paid. One of the homeowners paid off the lien, so it was removed. Two new people did not pay their dues this year and will have liens placed on their houses. We will have liens on a total of five houses.

K. Townhouse Parking Lot Spaces

When the parking areas were resealed and striped, a different space numbering scheme was used because the old numbers were no longer visible prior to doing the work and Dennis did not have a record of the old numbers to give to the contractor. Although there were no changes to space assignments, the townhouse residents did not like the change in numbers. As a result, the new numbers were blacked out. Only the visitor spaces are now labeled.

L. Liability of Board Members

Jay checked with the HOA's attorney, David Gardner about whether board members are protected from financial liability if the HOA is sued. Here is his response.

Section 5-406 of the Court and Judicial Proceedings Article states that any director or officer of a Maryland Homeowners Association is not personally liable for damages in any suit, provided that the Association maintains insurance to cover the "acts or omissions" of its agents with a minimum coverage of \$200,000 per individual claim and \$500,000 per total claims that arise from the same occurrence. This statute was passed by the Maryland Legislature to ensure that volunteers serve on association boards without the threat of lawsuits.

Olney Oaks has liability insurance that covers \$1,000,000 per individual claim and \$2,000,000 per total claims that arise from the same occurrence. We also have \$1,000,000 in directors and officers liability insurance. These are the amounts of insurance typically held by HOAs in this area.

There is also the possibility that legal expenses could be incurred if a board member is sued and has to hire an attorney to move to dismiss the suit under the provisions of Section 5-406.

Resolution: HOA funds will cover any legal expenses not covered by the HOA's insurance for any board member representing the HOA in his or her actions.

-- Resolution Approved.

Note that the HOA and the HOA's insurance will not cover a board member's actions if they are done with "malice or gross negligence."

M. Fidelity Insurance

Under a new state law enacted October 1, 2009, HOA's must purchase financial fidelity insurance to protect the HOA against the loss of funds resulting from acts or omissions arising from fraud, dishonesty or criminal acts of any officer, director, managing agent or employee. Jay will contact our insurance agency to arrange for this coverage.

N. Website Design

The board is interested in changing the design of the website because it is complicated to maintain and we need to have more than one person able to maintain the site. Nicole is researching this issue and will work with Marc to come up with a solution.

O. GOCA Report

Carolyn reported on the November 10th GOCA meeting. She discussed the ICC presentation of the State Highway Administration Community Liaison Odessa Philips and the concern voiced by GOCA regarding the large size of some of the planned signs on Georgia Avenue north and south of the ICC intersection and the high cost of the drivers' fees.

Caroline shared that County Council Member Nancy Navarro spoke about the challenges of the growth policy and crowded schools and the slowdown of the Olney town center development because of the current economic situation. Ms. Navarro introduced Montgomery County Police Department Captain Demme who shared that the police are interested in conversing with the woman who stopped her jogging only long enough to report that a man had exposed himself to her on the trail. In addition to this incident, Ms. Demme related incidents of vehicle equipment theft and requested drivers keep valuables hidden and vehicles locked.

Also at the GOCA meeting, Christopher Cihlar described the Montgomery County CountyStat Initiative now used to measure and improve county responsiveness and accountability. It is based on StateStats, which was based on CityStats in Baltimore.

The meeting ended at 9:30 p.m.